

HOUSE BILL NO. 1805

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Bloxom)

A BILL to amend and reenact §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia, relating to Virginia Resources Authority; purpose; community development and housing projects.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-198, 62.1-199, 62.1-216, and 62.1-218 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation, including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal, and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages, and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic-and development projects; community development projects, to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income; recovered gas energy facilities; the location or retention of federal facilities in the

27 Commonwealth and the support of the transition of former federal facilities from use by the federal
28 government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy,
29 and geothermal. This need can be alleviated in part through the creation of a resources authority. Its
30 purpose is to encourage the investment of both public and private funds and to make loans, grants, and
31 credit enhancements available to local governments to finance water and sewer projects; land
32 conservation or land preservation programs or projects; oyster restoration projects; drainage projects;
33 solid waste treatment, disposal, and management projects; recycling projects; energy conservation and
34 energy efficiency projects; professional sports facilities; resource recovery projects; public safety
35 facilities; airport facilities; the remediation of brownfields and contaminated properties, including
36 properties contaminated by defective drywall; the design and construction of roads, public parking
37 garages, and other public transportation facilities, and facilities for public transportation by commuter
38 rail; site acquisition and site development work for the benefit of economic development projects;
39 community development projects, to include projects related to the production and preservation of
40 housing, including housing for persons and families of low and moderate income; technology;
41 construction of local government buildings, including administrative and operations systems and other
42 local government equipment and infrastructure; infrastructure for broadband services; recovered gas
43 energy facilities; federal facilities or former federal facilities; and renewable energy projects. The
44 General Assembly determines that the creation of an authority for this purpose is in the public interest,
45 serves a public purpose, and will promote the health, safety, welfare, convenience, or prosperity of the
46 people of the Commonwealth.

47 **§ 62.1-199. Definitions.**

48 As used in this chapter, unless a different meaning clearly appears from the context requires a
49 different meaning:

50 "Authority" means the Virginia Resources Authority created by this chapter.

51 "Board of Directors" means the Board of Directors of the Authority.

52 "Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue
53 anticipation notes, lease and sale-leaseback transactions, or any other obligations of the Authority for the
54 payment of money.

55 "Capital Reserve Fund" means the reserve fund created and established by the Authority in
56 accordance with § 62.1-215.

57 "Cost," as applied to any project financed under the provisions of this chapter, means the total of
58 all costs incurred by the local government as reasonable and necessary for carrying out all works and
59 undertakings necessary or incident to the accomplishment of any project. It includes, without limitation,
60 all necessary developmental, planning and feasibility studies, surveys, plans and specifications,
61 architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any
62 buildings and improvements thereon, including the discharge of any obligations of the sellers of such land,
63 buildings or improvements, real estate appraisals, site preparation and development, including demolition
64 or removal of existing structures, construction and reconstruction, labor, materials, machinery and
65 equipment, the reasonable costs of financing incurred by the local government in the course of the
66 development of the project, including the cost of any credit enhancements, carrying charges incurred
67 before placing the project in service, interest on local obligations issued to finance the project to a date
68 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
69 connection with placing the project in service, the funding of accounts and reserves which the Authority
70 may require, and the cost of other items which the Authority determines to be reasonable and necessary.
71 It also includes the amount of any contribution, grant, or aid which a local government may make or give
72 to any adjoining state, the District of Columbia or any department, agency, or instrumentality thereof to
73 pay the costs incident and necessary to the accomplishment of any project, including, without limitation,
74 the items set forth above. ~~The term~~ "Cost" also includes interest and principal payments pursuant to any
75 installment purchase agreement.

76 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and
77 other forms of collateral or security.

78 "Defective drywall" means the same as that term is defined in § 36-156.1.

79 "Federal facility" means any building or infrastructure used or to be used by the federal
80 government, including any building or infrastructure located on lands owned by the federal government.

81 "Federal government" means the United States of America, or any department, agency, or
82 instrumentality, corporate or otherwise, of the United States of America.

83 "Former federal facility" means any federal facility formerly used by the federal government or in
84 transition from use by the federal government to a facility all or part of which is to serve any local
85 government.

86 "Local government" means any county, city, town, municipal corporation, authority, district,
87 commission, or political subdivision created by the General Assembly or pursuant to the Constitution and
88 laws of the Commonwealth or any combination of any two or more of the foregoing.

89 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or
90 revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government
91 for the payment of money.

92 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
93 amount of money designated as the minimum capital reserve fund requirement which may be established
94 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
95 outstanding issue of bonds or credit enhancement.

96 "Project" means (i) any water supply or wastewater treatment facility, including a facility for
97 receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment,
98 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
99 recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining
100 state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility
101 located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority
102 and the governing body of the local government receiving the benefit of the loan, grant, or credit
103 enhancement from the Authority make a determination or finding to be embodied in a resolution or
104 ordinance that the undertaking and financing of such facility is necessary for the location or retention of
105 such facility and the related use by the federal government in the Commonwealth. The term includes,

106 without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage
107 facilities; water distribution facilities; sewage and wastewater (including surface and ground water)
108 collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment,
109 disposal, or management facilities; recycling facilities; resource recovery facilities; related office,
110 administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The
111 term also includes energy conservation measures and facility technology infrastructure as defined in §
112 45.2-1702 and other energy objectives as defined in § 45.2-1706.1. The term also means any heavy rail
113 transportation facilities operated by a transportation district created under the Transportation District Act
114 of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading
115 facilities, and any related marine or rail equipment. The term also means, without limitation, the design
116 and construction of roads, the construction of local government buildings, including administrative and
117 operations systems and other local government equipment and infrastructure, public parking garages and
118 other public transportation facilities, and facilities for public transportation by commuter rail. In addition,
119 the term means any project as defined in § 5.1-30.1 or 10.1-603.28 and any professional sports facility,
120 including a major league baseball stadium as defined in § 15.2-5800, provided that the specific
121 professional sports facility projects have been designated by the General Assembly as eligible for
122 assistance from the Authority. The term also means any equipment, facilities, and technology
123 infrastructure designed to provide broadband service. The term also means facilities supporting, related
124 to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and
125 emergency response, fire, rescue, and police stations. The term also means the remediation,
126 redevelopment, and rehabilitation of property contaminated by the release of hazardous substances,
127 hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by
128 the United States Environmental Protection Agency, the Department of Environmental Quality, or a court
129 pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §
130 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste
131 Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other
132 applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also

133 means any program or project for land conservation, parks, park facilities, land for recreational purposes,
134 or land preservation, including but not limited to any program or project involving the acquisition of rights
135 or interests in land for the conservation or preservation of such land. The term also means any dredging
136 program or dredging project undertaken to benefit the economic and community development goals of a
137 local government but does not include any dredging program or dredging project undertaken for or by the
138 Virginia Port Authority. The term also means any oyster restoration project, including planting and
139 replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters.
140 The term also means any program or project to perform site acquisition or site development work for the
141 benefit of economic and community development projects for any local government. The term also means
142 any undertaking by a local government to build or facilitate the building production or preservation of
143 housing or a recovered gas energy facility; and any local government renewable energy project, including
144 solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by
145 a local government to facilitate the remediation of residential properties contaminated by the presence of
146 defective drywall. The term also means any undertaking by a local government to provide grants, loans,
147 financial assistance, or any other incentives pursuant to § 15.2-958.

148 "Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste
149 management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or
150 sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of
151 treating sewage and wastewater for discharge to state waters, which facility or work is constructed and
152 operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the
153 biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the
154 solid waste management facility or sewerage system or sewage treatment work and (b) either using such
155 gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for
156 sale or delivery to commercial or industrial purchasers or to a public utility or locality.

157 **§ 62.1-216. Purchase and credit enhancements of local obligations.**

158 The Authority shall have the power and authority, with any funds of the Authority available for
159 such a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to

160 finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all or
161 any portion of the local obligations so purchased. The Authority may also, subject to any such pledge, sell
162 any local obligations so purchased and apply the proceeds of such a sale to the purchase of other local
163 obligations for financing or refinancing the cost of any project or for any other corporate purpose of the
164 Authority.

165 The Authority shall also have the power and authority to issue credit enhancements, on terms
166 which the Authority determines, to credit enhance local obligations issued to finance or refinance the cost
167 of any project.

168 The Authority may require, as a condition to the purchase or credit enhancement of any local
169 obligations, that the local government issuing the local obligations covenant to perform any of the
170 following:

171 A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a
172 specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the
173 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal
174 of and premium, if any, and interest on the local obligations; and (iii) any amounts necessary to create and
175 maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by
176 the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

177 B. Create and maintain a special fund or funds for the payment of the principal of and premium, if
178 any, and interest on the local obligations and any other amounts becoming due under any agreement
179 entered into in connection with the local obligations, or for the operation, maintenance, repair or
180 replacement of the project or any portions thereof or other property of the local government, and deposit
181 into any fund or funds amounts sufficient to make any payments as they become due and payable;

182 C. Create and maintain other special funds as required by the Authority; and

183 D. Perform other acts, including the conveyance of real and personal property together with all
184 right, title and interest therein to the Authority, or take other actions as may be deemed necessary or
185 desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the
186 local obligations or obligations to the Authority with respect to any credit enhancement and to provide for

187 the remedies of the Authority or other holder of the local obligations in the event of any default by the
188 local government in the payment, including, without limitation, any of the following:

189 1. The procurement of credit enhancements or liquidity arrangements for local obligations from
190 any source, public or private, and the payment therefor of premiums, fees or other charges.

191 2. The payment of the allocable shares of the local governments, as determined by the Authority,
192 of any costs, fees, charges or expenses attributable to liquidity arrangements incurred in connection with
193 the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The
194 determination of such allocable shares may be made by the Authority on any reasonable basis.

195 3. The combination of one or more projects, or the combination of one or more projects with one
196 or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and
197 the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems
198 to secure local obligations issued in connection with such combination or any part or parts thereof.

199 4. The payment of the allocable shares of the local governments, as determined by the Authority
200 on any reasonable basis, of rate stabilization funds established or required by the Authority in connection
201 with the issuance of bonds by the Authority to acquire or provide credit enhancement for local obligations
202 of two or more local governments.

203 All local governments issuing and selling local obligations to the Authority or to be credit
204 enhanced by the Authority are authorized to perform any acts, take any action, adopt any proceedings and
205 make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts
206 need not be identical among all participants in financings of the Authority, but may be structured as
207 determined by the Authority according to the needs of the contracting local governments and the
208 Authority.

209 To the extent permitted by law for local obligations issued after July 1, 2003, local governments
210 may enter into agreements with the Authority that provide for a local government to consider and make
211 appropriations ~~of any funds or revenue generated~~ from the following: (i) ~~taxes, funds and assessments or~~
212 revenues from service districts created under Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2, (ii) funds or
213 revenues accumulated and held by the local government, or (iii) ~~any revenue or funds generated from~~

214 ~~sources other than property taxes imposed under Chapter 32 (§ 58.1-3200 et seq.) or Chapter 35 (§ 58.1-~~
215 ~~3500 et seq.) of Title 58.1 or revenues to be received or generated by the local government~~ in amounts
216 sufficient to pay all or a specified portion of the amounts set forth in subsection A or to make deposits into
217 the special fund or funds provided for in subsections B and C and to pledge and apply the amounts so
218 appropriated for such purposes.

219 **§ 62.1-218. Grants to local governments.**

220 The Authority shall have the power and authority, with any funds of the Authority available for
221 this purpose, to make grants to local governments. In determining which local governments are to receive
222 grants, the Department of Environmental Quality, the Department of Health, the Department of Housing
223 and Community Development, and the Virginia Waste Management Board shall assist the Authority in
224 determining needs for wastewater treatment facilities; water supply facilities; solid waste treatment,
225 disposal, or management facilities; housing, including housing for persons and families of low and
226 moderate income; or recycling facilities, and the method and form of such grants.

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